



Ref.



GP 2164

#8

PATENTS
CF/021 CON CPA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Philip M. Ginsberg
Application No.: 09/225,537
Filed : January 4, 1999
For : FIXED INCOME PORTFOLIO INDEX PROCESSOR
Group Art Unit : 2164
Examiner : G. Akers

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NOV 20 2000

Technology Center 2100

Hon. Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR WITHDRAWAL OF NOTICE
OF ABANDONMENT ISSUED AS A RESULT
OF PATENT AND TRADEMARK OFFICE ERROR

Sir:

The Patent and Trademark Office sent applicant a Notice of Abandonment for the above-identified allowed patent application on October 24, 2000. This Notice of Abandonment states that the application has been abandoned because of "Applicant's failure to timely file a proper response to the Office letter mailed on Aug 9, 2000." Contrary to this statement, applicant respectfully submits that the time for response to the letter has yet not passed, and, therefore, applicant was and still is entitled to file a response as a

matter of right subject to concurrent payment of the required extension of time fee under Rule 1.136(a).

On July 31, 2000, applicant filed a CPA application in this case without filing the required filing fee. Subsequently, and properly, a Notice to File Missing Parts of Application (CPA) was issued by the Patent Office on August 9, 2000. The Notice to File Missing Parts gave the applicant two months from the date of the Notice to submit the required filing fee and surcharge. Nevertheless, the Notice also provided that "[e]xtensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136(a)." A copy of the Notice to File Missing Parts is attached hereto in Exhibit A.

Turning to 37 C.F.R. § 1.136(a)(1), it is clear that the time to file a Reply to the Notice to File Missing Parts may be extended by up to five months by filing a petition and a fee, as no maximum period for reply to a Notice to File Missing Parts has been set by statute. Moreover, in accordance with 37 C.F.R. § 1.136(a)(2), because "[t]he date on which the petition and the fee [are] filed is the date for purposes of determining the period of extension," applicant may file the petition and the fee for the extension of time up to and including the last day of the five month extension period. Accordingly, applicant had and has up to and

including March 9, 2001 to file the filing fee and surcharge required by the Notice to File Missing Parts.

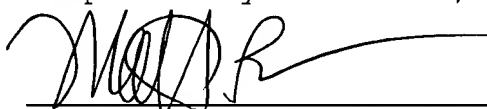
Nonetheless, on October 24, 2000, a Notice of Abandonment was issued in the above referenced case. A copy of the Notice of Abandonment is attached here to as Exhibit B.

The issuance of the Notice of Abandonment is baffling in this circumstance as the availability of automatic extensions of time under Rule 1.136(a) was clearly indicated in the Notice to File Missing Parts and is axiomatic to U.S. patent prosecution.

The foregoing demonstrates that the issuance of a Notice of Abandonment for this patent application was completely unjustified and erroneous. The Notice of Abandonment should accordingly be withdrawn and the applicant granted the appropriate period in which to reply to the Notice to File Missing Parts.

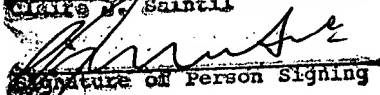
It is believed that no fee is due for this submission (because it was necessitated solely by Patent and Trademark Office error). However, if the Commissioner determines that a fee is due, the Commissioner is hereby authorized to charge that fee to Deposit Account No. 06-1075. A duplicate copy of this paper is enclosed herewith.

Respectfully submitted,



Matthew T. Byrne
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Attorney for Applicant
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I hereby certify that this
communication is being
submitted to the U.S.
Patent Office on first
class mail in an envelope
marked: **POSTAL**
COMMUNICATION
WASHINGTON, D.C. 20231 on

November 19, 2000
Claire S. Saintil

Signature of Person Signing

HOPGOOD, CALIMAFDE
KALIL & JUDLOWE, L

AUG 14 2000



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
07/000,007	08/09/00	GINSEBERG	0455-0111

LM71/0809

JAMES M BOLLINGER
HOPGOOD CALIMAFDE KALIL & JUDLOWE
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NEW YORK NY 10165

EXAMINER
AKERS, G

ART UNIT
2745

PAPER NUMBER

08/09/00

DATE MAILED

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NOV 20 2000

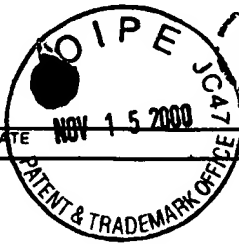
Technology Center 2100

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



09/225537



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NOV 20 2000

DATE MAILED: Technology Center 2100

NOTICE TO FILE MISSING PARTS OF APPLICATION (CPA)
Filing Date Granted

The Continued Prosecution Application (CPA) request filed on _____ is entitled to a filing date under 37 CFR 1.53(d)(1). The CPA request, however, lacks the filing fee(s) and/or items indicated below.

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the fee(s), item(s), and any surcharge required below to avoid abandonment of this CPA. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

The total amount owed by applicant is the sum of items 1(a) or (b), 2, and 3 (if checked) below.

- ☒ 1. The statutory basic filing fee is:
☒ missing.
☐ insufficient.

(a) Applicant must submit \$ 690.00 to complete the basic filing fee and the \$130.00 surcharge set forth in 37 CFR 1.16(e) (non-small entity), or \$ 130.00 to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e) and file a small entity statement under 37 CFR 1.27 claiming such status (if the prior application was entitled to small entity status and such status is still proper and desired, a new small entity statement is not required (37 CFR 1.28)).

(b) Applicant must submit \$ _____ to complete the basic filing fee as a small entity and the \$65.00 surcharge set forth in 37 CFR 1.16(e).

- ☐ 2. Additional claim fees of
\$ _____ (non-small entity) or \$ _____ (small entity) for _____ independent claims over 3.
\$ _____ (non-small entity) or \$ _____ (small entity) for _____ claims over 20.
\$ _____ (non-small entity) or \$ _____ (small entity) for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

- ☐ 3. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).
☐ 4. The CPA request is unsigned. Applicant must file a signed duplicate or ratification of the CPA request.
☐ 5. Other: _____

A copy of this Notice MUST be returned with the reply.

Direct the reply and any questions about this Notice to:

Mr. Hall

Examining Group 2700

(703) 30 8-0081

HOPG
KALIL

OCT 30 2000



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

→ **mat Byrne**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/225,537	01/04/99	GINSBERG	

TM31/1024

JAMES M BOLLINGER
HOPGOOD CALIMAFDE KALIL & JUDLOWE
60 EAST 42ND STREET
NEW YORK NY 10165

AKERS, EXAMINER

ART UNIT

PAPER NUMBER

10/26/00

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

NOV 15 2000

Notice of Abandonment

Application No.

09/225,537

Applicant(s)

Ginsberg

Examiner

Geoffrey Akers

Group Art Unit

2164

This application is abandoned in view of:

- ☒ applicant's failure to timely file a proper response to the Office letter mailed on Aug 9, 2000.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC)).
- ☒ No response has been received.
- ☐ applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☐ The issue fee has not been received.
- ☐ applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ the express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ the letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ the letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ the decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ the reason(s) below:

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VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
2165